

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 180
OFFERED BY MR. FRANK OF MASSACHUSETTS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Darfur Accountability
3 and Divestment Act”.

4 SEC. 2. FINDINGS.

5 The Congress finds as follows:

6 (1) In the 108th Congress, the House of Rep-
7 representatives adopted House Concurrent Resolution
8 467 on July 22, 2004, by a unanimous vote of 422-
9 0, which—

10 (A) declares that the atrocities unfolding
11 in the Darfur region of Sudan are genocide;

12 (B) declares that the Government of
13 Sudan has violated the Convention on the Pre-
14 vention and Punishment of the Crime of Geno-
15 cide;

16 (C) urges the Administration to seriously
17 consider multilateral intervention to stop geno-

1 cide in Darfur should the United Nations Secu-
2 rity Council fail to act; and

3 (D) calls on the Administration to impose
4 targeted sanctions, including visa bans and the
5 freezing of assets of the Sudanese National
6 Congress and affiliated business and individuals
7 directly responsible for the atrocities in Darfur.

8 (2) In the 109th Congress, the House of Rep-
9 resentatives passed H.R. 3127, the Darfur Peace
10 and Accountability Act of 2006, on April 5, 2006,
11 by a vote of 416-3, which—

12 (A) appeals to the international commu-
13 nity, including the United Nations, the Euro-
14 pean Union, and the North Atlantic Treaty Or-
15 ganization (NATO), to immediately mobilize
16 sufficient political, military, and financial re-
17 sources to support and expand the African
18 Union Mission in Sudan (AMIS);

19 (B) blocks assets and restricts travel of
20 any individual the President determines is re-
21 sponsible for acts of genocide, war crimes, or
22 crimes against humanity in the Darfur region
23 of Sudan; and

24 (C) offers United States support for the
25 International Criminal Court's efforts to pros-

1 ecute those responsible for acts of genocide in
2 Darfur.

3 (3) On September 9, 2004, former Secretary of
4 State Colin Powell stated before the Committee on
5 Foreign Relations of the Senate that genocide was
6 being committed in the Darfur region of Sudan and
7 that the Government of Sudan and the government-
8 supported Janjaweed militias bear responsibility for
9 the genocide.

10 (4) On September 21, 2004, President George
11 W. Bush affirmed the Secretary of State's finding in
12 an address before the United Nations General As-
13 sembly, stating that the world is witnessing terrible
14 suffering and horrible crimes in the Darfur region of
15 Sudan, crimes the Government of the United States
16 has concluded are genocide.

17 (5) On May 29, 2007, President George W.
18 Bush affirmed that the Government of Sudan is
19 complicit in the bombing, murder, and rape of inno-
20 cent civilians in Darfur and again declared that
21 these actions rightfully constitute genocide.

22 (6) Although the Government of the United
23 States currently bans United States companies from
24 conducting business operations in Sudan, millions of
25 Americans are inadvertently supporting the Govern-

1 ment of Sudan by investing in foreign companies
2 that conduct business operations in Sudan that dis-
3 proportionately benefit the Sudanese regime in
4 Khartoum.

5 (7) Several States and governmental entities,
6 through legislation and other means, have expressed
7 their desire, or are considering measures—

8 (A) to divest any equity in, or to refuse to
9 provide debt capital to, certain companies that
10 operate in Sudan;

11 (B) to disassociate themselves and the
12 beneficiaries of their public pension and endow-
13 ment funds from directly or indirectly sup-
14 porting the Darfur genocide; and

15 (C) to prohibit themselves from entering
16 into or renewing contracts for the procurement
17 of goods or services with certain companies that
18 have a direct investment in, or conduct business
19 operations in, Sudan

20 (8) California, Colorado, Florida, Hawaii, Indi-
21 ana, Illinois, Iowa, Kansas, Maine, Minnesota, New
22 Jersey, New York, Oregon, Rhode Island, Texas and
23 Vermont have passed legislation to divest State
24 funds from companies that conduct business oper-
25 ations in Sudan. Massachusetts, Michigan, North

1 Carolina, Ohio, Pennsylvania, South Carolina, and
2 Wisconsin are considering legislation to divest State
3 funds from companies that conduct business oper-
4 ations in Sudan. Arkansas, Connecticut, Maryland,
5 and Ohio have passed non-binding divestment legis-
6 lation with respect to Sudan.

7 (9) Denver, Colorado, Los Angeles, California,
8 Miami Beach, Florida, New Haven, Connecticut,
9 Newton, Massachusetts, Philadelphia, Pennsylvania,
10 Pittsburgh, Pennsylvania, Providence, Rhode Island,
11 and San Francisco, California have passed legisla-
12 tion mandating divestment of city funds from com-
13 panies that conduct business operations in Sudan.

14 (10) American University, Amherst College, An-
15 dover Newton Theological School, Boston University,
16 Bowdoin College, Brandeis University, Brown Uni-
17 versity, Colby College, Columbia University, Con-
18 necticut College, Cornell University, Dartmouth Col-
19 lege, Drew University, Duke University, Emory Uni-
20 versity, Hampton University, Harvard University,
21 Hendrix College, Howard University, Lee University,
22 Massachusetts Institute of Technology, Middlebury
23 College, Nazareth College, Northwestern University,
24 Oberlin College, Queen's University, Reconstruc-
25 tionist Rabbinical College, Regis University,

1 Samford University, Seton Hall, Smith College,
2 Stanford University, Swarthmore College, Trinity
3 College, University of California, University of Colo-
4 rado, University of Connecticut, University of Den-
5 ver, University of Illinois, University of Maryland,
6 University of Massachusetts, University of Min-
7 nesota, University of Pennsylvania, University of
8 Rochester, University of Southern California, Uni-
9 versity of Vermont, University of Virginia, Univer-
10 sity of Washington, University of Wisconsin System,
11 Vassar College, Wellesley College, Wheaton College,
12 Williams College, and Yale University have divested
13 their funds from or placed restrictions on investment
14 of their funds in certain companies that conduct
15 business operations in Sudan.

16 (11) Divestment has proven effective in similar
17 situations, as in 1986, when State pension funds
18 and university endowments were divested from com-
19 panies that conducted business operations in South
20 Africa, which was critical to ending apartheid in that
21 country, and by 1994, when the first free elections
22 in South Africa took place, a substantial number of
23 States, counties, cities, universities, and colleges in
24 the United States had adopted partial or total di-
25 vestment policies.

1 (12) Economic pressure against the Govern-
2 ment of Sudan has been effective in pushing Sudan
3 to cooperate with the United States on
4 counterterrorism efforts and in part in agreeing to
5 negotiations with the Sudan People's Liberation
6 Army of South Sudan which resulted in the Com-
7 prehensive Peace Agreement of 2005.

8 (13) Congress acknowledges that divestment
9 should be used sparingly and under extraordinary
10 circumstances. This Act is based on unique cir-
11 cumstances, specifically, the reprehensible and ab-
12 horrent genocide occurring in Sudan.

13 (14) The business operations of companies in
14 countries that perpetrate grave abuses of human
15 rights, especially the uniquely monstrous crime of
16 genocide, are of concern to many United States in-
17 vestors and citizens even when these operations rep-
18 resent a small fraction of a company's total busi-
19 ness.

20 (15) State and city pension funds have rou-
21 tinely but unsuccessfully sought to acquire and uti-
22 lize data from the Federal Government on compa-
23 nies for investment decisions.

24 (16) There is an increasing interest by States,
25 local governments, educational institutions, and pri-

1 vate institutions to seek to disassociate themselves
2 from companies that support the Government of
3 Sudan.

4 (17) Policy makers and fund managers may
5 find moral, prudential, or reputational reasons to di-
6 vest from companies that accept the business risk of
7 operating in countries that are subject to inter-
8 national economic sanctions or that have business
9 relationships with countries, governments, or entities
10 with which any United States company would be
11 prohibited from dealing because of economic sanc-
12 tions imposed by the United States.

13 (18) The world community has a moral obliga-
14 tion to work to do everything possible to stop the on-
15 going genocidal practices of the Government of
16 Sudan in the Darfur region.

17 **SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.**

18 (a) LIST OF PERSONS DIRECTLY INVESTING IN OR
19 CONDUCTING BUSINESS OPERATIONS IN CERTAIN SUDA-
20 NESE SECTORS.—

21 (1) PUBLICATION OF LIST.—Not later than 6
22 months after the date of the enactment of this Act
23 and every 6 months thereafter, the Secretary of the
24 Treasury, in consultation with the Secretary of En-
25 ergy, the Secretary of State, the Securities and Ex-

1 change Commission, and the heads of other appro-
2 priate Federal departments and agencies, shall,
3 using only publicly available (including proprietary)
4 information, ensure publication in the Federal Reg-
5 ister of a list of each person, whether within or out-
6 side of the United States, that, as of the date of the
7 publication, has a direct investment in, or is con-
8 ducting, business operations in Sudan's power pro-
9 duction, mineral extraction, oil-related, or military
10 equipment industries, subject to paragraph (2). To
11 the extent practicable, the list shall include a de-
12 scription of the investment made by each such per-
13 son, including the dollar value, intended purpose,
14 and status of the investment, as of the date of the
15 publication.

16 (2) EXCEPTIONS.—The Secretary of the Treas-
17 ury shall exclude a person from the list if all of the
18 business operations by reason of which the person
19 would otherwise be included on the list—

20 (A) are conducted under contract directly
21 and exclusively with the regional government of
22 southern Sudan;

23 (B) are conducted under a license from the
24 Office of Foreign Assets Control, or are ex-
25 pressly exempted under Federal law from the

1 requirement to be conducted under such a li-
2 cense;

3 (C) consist of providing goods or services
4 to marginalized populations of Sudan;

5 (D) consist of providing goods or services
6 to an internationally recognized peacekeeping
7 force or humanitarian organization;

8 (E) consist of providing goods or services
9 that are used only to promote health or edu-
10 cation;

11 (F) are conducted by a person that has
12 also undertaken significant humanitarian ef-
13 forts as described in section 10(14)(B);

14 (G) have been voluntarily suspended; or

15 (H) will cease within 1 year after the
16 adoption of a formal plan to cease the oper-
17 ations, as determined by the Secretary.

18 (3) CONSIDERATION OF SCRUTINIZED BUSINESS
19 OPERATIONS.—The Secretary of the Treasury
20 should give serious consideration to including on the
21 list any company that has a scrutinized business op-
22 eration with respect to Sudan (within the meaning
23 of section 10(4)).

24 (4) PRIOR NOTICE TO PERSONS.—The Sec-
25 retary of the Treasury shall, at least 30 days before

1 the list is published under paragraph (1), notify
2 each person that the Secretary intends to include on
3 the list.

4 (5) DELAY IN INCLUDING PERSONS ON THE
5 LIST.—After notifying a person under paragraph
6 (4), the Secretary of the Treasury may delay includ-
7 ing that person on the list for up to 60 days if the
8 Secretary determines and certifies to the Congress
9 that the person has taken specific and effective ac-
10 tions to terminate the involvement of the person in
11 the activities that resulted in the notification under
12 paragraph (4).

13 (6) REMOVAL OF PERSONS FROM THE LIST.—
14 The Secretary of the Treasury may remove a person
15 from the list before the next publication of the list
16 under paragraph (1) if the Secretary determines
17 that the person no longer has a direct investment in
18 or is no longer conducting business operations as de-
19 scribed in paragraph (1).

20 (7) ADVANCE NOTICE TO CONGRESS.—Not later
21 than 30 days (or, in the case of the 1st such list,
22 60 days) before the date by which paragraph (1) re-
23 quires the list to be published, the Secretary of the
24 Treasury shall submit to the Committees on Finan-
25 cial Services, on Education and Labor, and on Over-

1 sight and Government Reform of the House of Rep-
2 resentatives and the Committees on Banking, Hous-
3 ing, and Urban Affairs, on Health, Education,
4 Labor, and Pensions, and on Homeland Security
5 and Governmental Affairs of the Senate a copy of
6 the list which the Secretary intends to publish under
7 paragraph (1).

8 (b) PUBLICATION ON WEBSITE.—The Secretary of
9 the Treasury shall ensure that the list is published on an
10 appropriate, publicly accessible government website, up-
11 dating the list as necessary to take into account any per-
12 son removed from the list under subsection (a)(6).

13 (c) DEFINITION.—In this section, the term “invest-
14 ment” has the meaning given in section 4(b)(3).

15 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
16 **TO DIVEST FROM CERTAIN COMPANIES DI-**
17 **RECTLY INVESTED IN CERTAIN SUDANESE**
18 **SECTORS.**

19 (a) STATEMENT OF POLICY.—It is the policy of the
20 United States to support the decision of any State or local
21 government to divest from, and to prohibit the investment
22 of assets controlled by the State or local government in,
23 persons on—

24 (1) the list most recently published under sec-
25 tion 3(a)(1), as modified under section 3(a)(6); or

1 (2) any list developed by the State or local gov-
2 ernment for the purpose of divestment from certain
3 persons described in subsection (b)(1)(B) of this sec-
4 tion.

5 (b) AUTHORITY TO DIVEST.—

6 (1) IN GENERAL.—Notwithstanding any other
7 provision of law, a State or local government may
8 adopt and enforce measures to divest the assets of
9 the State or local government from, or prohibit in-
10 vestment of the assets of the State or local govern-
11 ment in—

12 (A) persons that are included on the list
13 most recently published under section 3(a)(1) of
14 this Act, as modified under section 3(a)(6) of
15 this Act; or

16 (B) persons having a direct investment in,
17 or carrying on a trade or business (within the
18 meaning of section 162 of the Internal Revenue
19 Code of 1986) in Sudan or with the Govern-
20 ment of Sudan.

21 (2) APPLICABILITY.—This subsection applies to
22 measures adopted by a State or local government be-
23 fore, on, or after the date of the enactment of this
24 Act.

25 (3) DEFINITIONS.—In this subsection:

1 (A) INVESTMENT.—The “investment” of
2 assets includes—

3 (i) a commitment or contribution of
4 assets; and
5 (ii) a loan or other extension of credit
6 of assets.

7 (B) ASSETS.—The term “assets” refers to
8 public monies and includes any pension, retire-
9 ment, annuity, or endowment fund, or similar
10 instrument, that is controlled, directly or indi-
11 rectly, by a State or local government.

12 (4) ADDITIONAL DEFINITION.—For purposes of
13 paragraph (1)(B), the term “investment” means the
14 acquisition of property or assets for the production
15 of revenue.

16 (c) PREEMPTION.—A measure of a State or local gov-
17 ernment that is authorized by subsection (b) is not pre-
18 empted by any Federal law or regulation.

19 **SEC. 5. SENSE OF THE CONGRESS.**

20 It is the sense of the Congress that a divestment
21 measure authorized under section 4 or a measure author-
22 ized under section 9 to prohibit State or local contracts
23 would not violate the United States Constitution because
24 such a measure—

1 (1) is not pre-empted under the Supremacy
2 Clause;

3 (2) is authorized by the Congress as an appro-
4 prium measure with regard to interstate or foreign
5 commerce; and

6 (3) is authorized by the Congress as a measure
7 that promotes the foreign policy of the United
8 States.

9 **SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT**
10 **POLICIES BY ASSET MANAGERS.**

11 Section 13 of the Investment Company Act of 1940
12 (15 U.S.C. 80a-13) is amended by adding at the end the
13 following new subsection:

14 “(c) **SAFE HARBOR FOR CHANGES IN INVESTMENT**
15 **POLICIES.**—Notwithstanding any other provision of Fed-
16 eral or State law, no person may bring any civil, criminal,
17 or administrative action against any registered investment
18 company or person providing services to such registered
19 investment company (including its investment adviser), or
20 any employee, officer, or director thereof, based upon the
21 investment company divesting from, or avoiding investing
22 in, securities issued by companies that are included on the
23 list most recently published under section 3(a)(1) of the
24 Darfur Accountability and Divestment Act, as modified
25 under section 3(a)(6) of that Act. For purposes of this

1 subsection the term ‘person’ shall include the Federal gov-
2 ernment, and any State or political subdivision of a
3 State.”.

4 **SEC. 7. SAFE HARBOR FOR CHANGES OF INVESTMENT**
5 **POLICIES BY EMPLOYEE BENEFIT PLANS.**

6 Section 404 of the Employee Retirement Income Se-
7 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
8 at the end the following new subsection:

9 “(n) No person shall be treated as breaching any of
10 the responsibilities, obligations, or duties imposed upon fi-
11 duciaries by this title for divesting plan assets from, or
12 avoiding investing plan assets in, persons that are included
13 on the list most recently published under section 3(a)(1)
14 of the Darfur Accountability and Divestment Act, as
15 modified under section 3(a)(6) of such Act. Any divesti-
16 ture of plan assets from, or avoidance of investing plan
17 assets in, persons that are included on such list shall be
18 treated as in accordance with this title and the documents
19 and instruments governing the plan.”.

20 **SEC. 8. PROHIBITION ON UNITED STATES GOVERNMENT**
21 **CONTRACTS.**

22 (a) PROHIBITION.—Notwithstanding any other provi-
23 sion of law, the Government of the United States shall
24 not enter into or renew a contract for the procurement
25 of goods or services with persons that are included on the

1 list most recently published under section 3(a)(1), as
2 modified under section 3(a)(6).

3 (b) WAIVER AUTHORITY.—The President may waive
4 the prohibition in subsection (a) on a case-by-case basis
5 if the President determines and certifies in writing to the
6 Congress that it is important to the national security in-
7 terests of the United States to do so.

8 **SEC. 9. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
9 **TO PROHIBIT CONTRACTS.**

10 (a) STATEMENT OF POLICY.—It is the policy of the
11 United States to support the decision of any State or local
12 government to prohibit the State or local government, as
13 the case may be, from entering into or renewing a contract
14 as described in subsection (b).

15 (b) AUTHORITY TO PROHIBIT CONTRACTS.—Not-
16 withstanding any other provision of law, a State or local
17 government may adopt and enforce measures to prohibit
18 the State or local government, as the case may be, from
19 entering into or renewing a contract for the procurement
20 of goods or services with persons that are included on the
21 list most recently published under section 3(a)(1), as
22 modified under section 3(a)(6).

23 **SEC. 10. DEFINITIONS.**

24 For purposes of this Act:

1 (1) PERSON.—The term “person”, except in
2 paragraph (6), means—

3 (A) a natural person as well as a corpora-
4 tion, company, business association, partner-
5 ship, society, trust, any other nongovernmental
6 entity, organization, or group;

7 (B) any governmental entity or instrumen-
8 tality of a government, including a multilateral
9 development institution (as defined in section
10 1701(c)(3) of the International Financial Insti-
11 tutions Act); and

12 (C) any successor, subunit, or subsidiary of
13 any entity described in subparagraph (A) or
14 (B).

15 (2) STATE.—The term “State” includes the
16 District of Columbia, the Commonwealth of Puerto
17 Rico, the United States Virgin Islands, Guam,
18 American Samoa, and the Commonwealth of the
19 Northern Mariana Islands.

20 (3) STATE OR LOCAL GOVERNMENT.—

21 (A) IN GENERAL.—The term “State or
22 local government” includes—

23 (i) any State and any agency or in-
24 strumentality thereof;

1 (ii) any local government within a
2 State, and any agency or instrumentality
3 thereof;

4 (iii) any other governmental instru-
5 mentality; and

6 (iv) any public institution of higher
7 education.

8 (B) PUBLIC INSTITUTION OF HIGHER EDU-
9 CATION.—The term “public institution of high-
10 er education” means a public institution of
11 higher education within the meaning of the
12 Higher Education Act of 1965.

13 (4) SCRUTINIZED BUSINESS OPERATION.—A
14 company has a scrutinized business operation with
15 respect to Sudan if—

16 (A)(i) the company has business operations
17 that involve contracts with or provision of sup-
18 plies or services to—

19 (I) the Government of Sudan;

20 (II) a company in which the Govern-
21 ment of Sudan has any direct or indirect
22 equity share;

23 (III) a consortium or project commis-
24 sioned by the Government of Sudan; or

1 (IV) a company involved in a consor-
2 tium or project commissioned by the Gov-
3 ernment of Sudan; and

4 (ii)(I)(aa) more than 10 percent of the rev-
5 enues or assets of the company that are linked
6 to Sudan involve oil-related activities or mineral
7 extraction activities;

8 (bb) less than 75 percent of the revenues
9 or assets of the company that are linked to
10 Sudan involve contracts with, or provision of
11 oil-related or mineral extracting products or
12 services to the regional government of southern
13 Sudan or a project or consortium created exclu-
14 sively by that regional government; and

15 (cc) the company has failed to take sub-
16 stantial action with respect to the business op-
17 erations referred to in clause (i) of this sub-
18 paragraph or as described in subparagraph (B)
19 or (C) of paragraph (14); or

20 (II)(aa) more than 10 percent of the reve-
21 nues or assets of the company that are linked
22 to Sudan involve power production activities;

23 (bb) less than 75 percent of the power pro-
24 duction activities of the company include
25 projects whose intent is to provide power or

1 electricity to the marginalized populations of
2 Sudan; and

3 (cc) the company has failed to take sub-
4 stantial action with respect to the business op-
5 erations referred to in clause (i) of this sub-
6 paragraph or as described in subparagraph (B)
7 or (C) of paragraph (14);

8 (B) the company supplies military equip-
9 ment in Sudan, unless the company clearly
10 shows that—

11 (i) the military equipment cannot be
12 used to facilitate offensive military actions
13 in Sudan; or

14 (ii) the company implements rigorous
15 and verifiable safeguards to prevent use of
16 the equipment by forces actively partici-
17 pating in armed conflict, including
18 through—

19 (I) post-sale tracking of the
20 equipment by the company;

21 (II) certification from a reputable
22 and objective third party that such
23 equipment is not being used by a
24 party participating in armed conflict
25 in Sudan; or

1 (III) sale of the equipment solely
2 to the regional government of south-
3 ern Sudan or any internationally rec-
4 ognized peacekeeping force or humani-
5 tarian organization; or

6 (C) the Secretary of the Treasury has de-
7 termined that the company has been complicit
8 in the Darfur genocide.

9 (5) BUSINESS OPERATIONS.—The term “busi-
10 ness operations” means engaging in commerce in
11 any form in Sudan, including by acquiring, devel-
12 oping, maintaining, owning, selling, possessing, leas-
13 ing, or operating equipment, facilities, personnel,
14 products, services, personal property, real property,
15 or any other apparatus of business or commerce.

16 (6) COMPANY.—The term “company” means
17 any natural person, legal person, sole proprietorship,
18 organization, association, corporation, partnership,
19 firm, joint venture, franchisor, franchisee, financial
20 institution, utility, public franchise, trust, enterprise,
21 limited partnership, limited liability partnership, lim-
22 ited liability company, or other business entity or as-
23 sociation, including all wholly-owned subsidiaries,
24 majority-owned subsidiaries, parent companies, or

1 affiliates of such business entities or associations,
2 that exists for profit-making purposes.

3 (7) COMPLICIT.—The term “complicit” means
4 has taken actions in the preceding 20 months which
5 have directly supported or promoted the genocidal
6 campaign in Darfur, including preventing Darfur’s
7 victimized population from communicating with each
8 other, encouraging Sudanese citizens to speak out
9 against an internationally approved security force
10 for Darfur, actively working to deny, cover up, or
11 alter evidence of human rights abuses in Darfur, or
12 other similar actions.

13 (8) GOVERNMENT OF SUDAN.—The term “Gov-
14 ernment of Sudan” means the government in Khar-
15 toun, Sudan, which is led by the National Congress
16 Party (formerly known as the National Islamic
17 Front) or any successor government formed on or
18 after October 13, 2006 (including the coalition Na-
19 tional Unity Government agreed upon in the Com-
20 prehensive Peace Agreement for Sudan), and does
21 not include the regional government of southern
22 Sudan.

23 (9) MARGINALIZED POPULATIONS OF SUDAN.—
24 The term “marginalized populations of Sudan” in-
25 cludes—

1 (A) the portion of the population in the
2 Darfur region that has been victimized;

3 (B) the portion of the population of south-
4 ern Sudan victimized by Sudan's North-South
5 civil war;

6 (C) the Beja, Rashidiya, and other simi-
7 larly affected groups of eastern Sudan;

8 (D) the Nubian and other similarly af-
9 fected groups in Sudan's Abyei, Southern Blue
10 Nile, and Nuba Mountain regions; and

11 (E) the Amri, Hamadab, Manasir, and
12 other similarly affected groups of northern
13 Sudan.

14 (10) MILITARY EQUIPMENT.—The term “mili-
15 tary equipment” means—

16 (A) weapons, arms, military supplies, and
17 equipment that readily may be used for military
18 purposes, including radar systems or military-
19 grade transport vehicles; or

20 (B) supplies or services sold or provided di-
21 rectly or indirectly to any force actively partici-
22 pating in armed conflict in Sudan.

23 (11) MINERAL EXTRACTION ACTIVITIES.—The
24 term “mineral extraction activities” includes—

1 (A) exploring, extracting, processing,
2 transporting, or wholesale selling or trading of
3 elemental minerals or associated metal alloys or
4 oxides (ore), including gold, copper, chromium,
5 chromite, diamonds, iron, iron ore, silver, tung-
6 sten, uranium, and zinc, and

7 (B) facilitating any activity described in
8 subparagraph (A), including by providing sup-
9 plies or services in support of the activity.

10 (12) OIL-RELATED ACTIVITIES.—

11 (A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term “oil-related activi-
13 ties” includes—

14 (i) exporting, extracting, producing,
15 refining, processing, exploring for, trans-
16 porting, selling, or trading oil;

17 (ii) constructing, maintaining, or op-
18 erating a pipeline, refinery, or other oilfield
19 infrastructure; and

20 (iii) facilitating any activity described
21 in clause (i) or (ii), including by providing
22 supplies or services in support of the activ-
23 ity.

24 (B) SPECIAL RULES.—

1 (i) A company that is involved in the
2 retail sale of gasoline or related consumer
3 products in Sudan but is not involved in
4 any other activity described in subpara-
5 graph (A) shall not be considered to be in-
6 volved in an oil-related activity.

7 (ii) A company that is involved in
8 leasing, or that owns, rights to an oil block
9 in Sudan but is not involved in any other
10 activity described in subparagraph (A)
11 shall not be considered to be involved in an
12 oil-related activity.

13 (13) POWER PRODUCTION ACTIVITIES.—The
14 term “power production activities” means—

15 (A) any business operation that involves a
16 project commissioned by the National Elec-
17 tricity Corporation of Sudan or other similar
18 Government of Sudan entity whose purpose is
19 to facilitate power generation and delivery, in-
20 cluding establishing power-generating plants or
21 hydroelectric dams, selling or installing compo-
22 nents for the project, providing service con-
23 tracts related to the installation or maintenance
24 of the project; and

1 (B) facilitating an activity described in
2 subparagraph (A), including by providing sup-
3 plies or services in support of the activity.

4 (14) SUBSTANTIAL ACTION.—The term “sub-
5 stantial action” means—

6 (A) adopting, publicizing, and imple-
7 menting a formal plan to cease scrutinized busi-
8 ness operations within 1 year after the date of
9 the enactment of this Act, and refraining from
10 any new scrutinized business operations;

11 (B) undertaking significant humanitarian
12 efforts—

13 (i) in conjunction with an inter-
14 national development or humanitarian or-
15 ganization, the regional government of
16 southern Sudan, or a non-profit entity;

17 (ii) substantial in relationship to the
18 size and scope of the business operations
19 with respect to Sudan;

20 (iii) of benefit to 1 or more
21 marginalized populations of Sudan; and

22 (iv) evaluated and certified by an
23 independent third party to meet the re-
24 quirements of clauses (i) through (iii); or

1 (C) materially improving conditions for the
2 victimized population in Darfur.

3 **SEC. 11. SUNSET.**

4 This Act shall terminate 30 days after the date on
5 which—

6 (1) the President has certified to Congress
7 that—

8 (A) the Darfur genocide has been halted
9 for at least 12 months; and

10 (B) the Government of Sudan has honored
11 its commitments to—

12 (i) abide by United Nations Security
13 Council Resolution 1706;

14 (ii) cease attacks on civilians;

15 (iii) demobilize and demilitarize the
16 Janjeweed and associated militias;

17 (iv) grant free and unfettered access
18 for delivery of humanitarian assistance;
19 and

20 (v) allow for the safe and voluntary
21 return of refugees and internally displaced
22 persons; and

23 (2) the United States has revoked all sanctions
24 against the Government of Sudan and the officials

1 of such government, including sanctions authorized
2 by—

3 (A) the Sudan Peace Act (Public Law
4 107–245);

5 (B) the Comprehensive Peace in Sudan
6 Act of 2004 (Public Law 108–497);

7 (C) the USA PATRIOT Improvement and
8 Reauthorization Act of 2005 (Public Law 109–
9 177);

10 (D) the Darfur Peace and Accountability
11 Act of 2006 (Public Law 109–344); and

12 (E) any other Federal law or executive
13 order.